

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA  
CHARLOTTE DIVISION**

**UNITED STATES OF AMERICA,**

**vs.**

**JAMES PATRICK MCGRAW,**

*Defendant.*

**DOCKET NO. 3:24-CR-162-FDW**

**UNOPPOSED MOTION TO  
CONTINUE TRIAL DATE & MOTIONS  
DEADLINE**

James Patrick McGraw, by and through his counsel of record, Assistant Federal Defender John Parke Davis, respectfully requests that this Court continue the trial date presently scheduled for January 6, 2025, along with the pretrial motions deadline. As grounds therefore, it is averred:

1. On September 11, 2024, Mr. McGraw was arraigned on a two-count Bill of Indictment, charging him with violations of 18 U.S.C. § 2252A(a)(2)(A) (Count One) and 18 U.S.C. § 2252A(a)(5)(B) (Count Two). He was appointed counsel and was ordered detained pending trial.

2. Mr. McGraw faces a very substantial sentence if convicted, including a 15-year mandatory minimum sentence, and plea negotiations are ongoing.

3. Mr. McGraw's current counsel was on paternity leave at the time of Mr. McGraw's initial appearance, and was not assigned to Mr. McGraw's case until approximately a month later, on October 18, 2024. Counsel has worked diligently to prepare Mr. McGraw's case since that time, but needs additional time to review discovery with Mr. McGraw, to fully investigate Mr. McGraw's case and possible defenses, and to effectively negotiate with the government and

prepare the case for trial.

4. This is Mr. McGraw's first motion for a continuance of this matter.

5. The time period of this continuance is excludable under 18 U.S.C. § 3161(h)(1), because the Fourth Circuit has specifically found ongoing plea negotiations to be "other proceedings" under the terms of the Speedy Trial Act. *E.g. U.S. v. Keita*, 742 F.3d 184, 188 (4th Cir. 2014); *U.S. v. Leftenant*, 341 F.3d 338, 345 (4th Cir. 2003) (collecting similar authority from other circuits). Thus, this period of delay is excludable as a period of delay resulting from another proceeding concerning the defendant. 18 U.S.C. § 3161(h)(1); *Keita*, 742 F.3d at 188 (affirming that any period of delay due to ongoing plea negotiations is excludable under the Speedy Trial Act). It is also excludable under § 3161(h)(7)(B)(iv), as the need for additional time to allow for effective preparation, taking into account defense counsel's due diligence, outweighs the interests of the public or the defendant in a speedy trial.

6. For the same reasons stated above, Mr. McGraw needs additional time to research related legal and factual issues that may arise from reviewing discovery, interviewing Mr. McGraw, and investigating the case.

7. The government does not oppose the granting of this motion.

**WHEREFORE**, Mr. McGraw respectfully requests a continuance of his trial date from the January 6, 2025 term to the next available term of court, and a corresponding extension of the pretrial motion and notice deadline to line up with the Court's next criminal term.

Respectfully submitted:

s/ John Parke Davis  
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DATE: December 2, 2024